

CHAPTER 59A-35
HEALTH CARE LICENSING PROCEDURES

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59A-35.020 Applicability.

The requirements of Chapter 408, Part II, F.S., and this rule chapter apply to:

- (1) Drug Free Workplace Laboratories as provided under Sections 112.0455 and 440.102, F.S.;
- (2) Birth Centers, as provided under Chapter 383, F.S.;
- (3) Abortion Clinics, as provided under Chapter 390, F.S.;
- (4) Crisis Stabilization Units, as provided under Chapter 394, Parts I and IV, F.S.;
- (5) Short Term Residential Treatment Units, as provided under Chapter 394, Parts I and IV, F.S.;
- (6) Residential Treatment Facilities, as provided under Chapter 394, Part IV, F.S.;
- (7) Residential Treatment Centers for Children and Adolescents, as provided under Chapter 394, Part IV, F.S.;
- (8) Hospitals, as provided under Chapter 395, Part I, F.S.;
- (9) Ambulatory Surgical Centers, as provided under Chapter 395, Part I, F.S.;
- (10) Mobile Surgical Facilities, as provided under Chapter 395, Part I, F.S.;
- (11) Health Care Risk Managers, as provided under Chapter 395, Part I, F.S.;
- (12) Nursing Homes, as provided under Chapter 400, Part II, F.S.;
- (13) Home Health Agencies, as provided under Chapter 400, Part III, F.S.;
- (14) Nurse Registries, as provided under Chapter 400, Part III, F.S.;
- (15) Companion Services or Homemaker Services Providers, as provided under Chapter 400, Part III, F.S.;
- (16) Hospices, as provided under Chapter 400, Part IV, F.S.;
- (17) Homes for Special Services as provided under Chapter 400, Part V, F.S.;
- (18) Transitional Living Facilities, as provided under Chapter 400, Part V, F.S.;
- (19) Prescribed Pediatric Extended Care Centers, as provided under Chapter 400, Part VI, F.S.;
- (20) Home Medical Equipment Providers, as provided under Chapter 400, Part VII, F.S.;
- (21) Intermediate Care Facilities for the Developmentally Disabled, as provided under Chapter 400, Part VIII, F.S.;
- (22) Health Care Services Pools, as provided under Chapter 400, Part IX, F.S.;

- (23) Health Care Clinics, as provided under Chapter 400, Part X, F.S., including certificate of exemption;
- (24) Assisted Living Facilities, as provided under Chapter 429, Part I, F.S.;
- (25) Adult Family-Care Homes, as provided under Chapter 429, Part II, F.S.;
- (26) Adult Day Care Centers, as provided under Chapter 429, Part III, F.S.;
- (27) Clinical Laboratories, as provided under Chapter 483, Part I, F.S.;
- (28) Multiphasic Health Testing Centers, as provided under Chapter 483, Part II, F.S.;
- (29) Organ and Tissue Procurement Agencies, as provided under Chapter 381, F.S.

Rulemaking Authority 408.819 FS. Law Implemented 408.802 FS. History—New 7-14-10.

59A-35.030 Definitions.

(1) “Address of record” means the location that is printed on the license and is the address at which the provider is licensed to operate. In the event a license displays multiple locations including branch offices, satellite offices, or off-site locations, the address of record is the main or principle office address.

(2) “Agency notification” or “Agency request” means the Agency sends notification by:

- (a) Mail or personal delivery to the address of record for a licensee or applicant;
- (b) Mail to an alternative mailing address if requested by the licensee or applicant; or
- (c) Electronic mail if an electronic mail address has been provided.

(3) “Days” means calendar days.

(4) “Management company” means an entity retained by a licensee to administer or direct the operation of a provider. This does not include an entity that serves solely as a lender or lien holder.

Rulemaking Authority 408.819 FS. Law Implemented 408.803 FS. History—New 7-14-10.

59A-35.040 License Required; Display.

(1) A license is valid only for the licensee, provider, and location for which the license is issued as it appears on the license.

(2) Any request to amend a license must be received by the Agency in advance of the requested effective date as detailed below. Requests to amend a license are not authorized until the license is issued.

(a) Requests to change the address of record must be received by the Agency 60 to 120 days in advance of the requested effective date for the following provider types:

- 1. Birth Centers, as provided under Chapter 383, F.S.;
- 2. Abortion Clinics, as provided under Chapter 390, F.S.;
- 3. Crisis Stabilization Units, as provided under Chapter 394, Parts I and IV, F.S.;
- 4. Short Term Residential Treatment Units, as provided under Chapter 394, Parts I and IV, F.S.;
- 5. Residential Treatment Facilities, as provided under Chapter 394, Part IV, F.S.;
- 6. Residential Treatment Centers for Children and Adolescents, as provided under Chapter 394, Part IV, F.S.;
- 7. Hospitals, as provided under Chapter 395, Part I, F.S.;
- 8. Ambulatory Surgical Centers, as provided under Chapter 395, Part I, F.S.;
- 9. Nursing Homes, as provided under Chapter 400, Part II, F.S.;
- 10. Hospices, as provided under Chapter 400, Part IV, F.S.;
- 11. Homes for Special Services as provided under Chapter 400, Part V, F.S.;
- 12. Transitional Living Facilities, as provided under Chapter 400, Part V, F.S.;
- 13. Prescribed Pediatric Extended Care Centers, as provided under Chapter 400, Part VI, F.S.;

14. Intermediate Care Facilities for the Developmentally Disabled, as provided under Chapter 400, Part VIII, F.S.;

15. Assisted Living Facilities, as provided under Chapter 429, Part I, F.S.;

16. Adult Family-Care Homes, as provided under Chapter 429, Part II, F.S.; and,

17. Adult Day Care Centers, as provided under Chapter 429, Part III, F.S.

(b) Requests to change the address of record must be received by the Agency 21 to 120 days in advance of the requested effective date for the following provider types:

1. Drug Free Workplace Laboratories as provided under Sections 112.0455 and 440.102, F.S.;

2. Mobile Surgical Facilities, as provided under Chapter 395, Part I, F.S.;

3. Health Care Risk Managers, as provided under Chapter 395, Part I, F.S.;

4. Home Health Agencies, as provided under Chapter 400, Part III, F.S.;

5. Nurse Registries, as provided under Chapter 400, Part III, F.S.;

6. Companion Services or Homemaker Services Providers, as provided under Chapter 400, Part III, F.S.;

7. Home Medical Equipment Providers, as provided under Chapter 400, Part VII, F.S.;

8. Health Care Services Pools, as provided under Chapter 400, Part IX, F.S.;

9. Health Care Clinics, as provided under Chapter 400, Part X, F.S., including certificate of exemption;

10. Clinical Laboratories, as provided under Chapter 483, Part I, F.S.;

11. Multiphasic Health Testing Centers, as provided under Chapter 483, Part II, F.S.; and,

12. Organ and Tissue Procurement Agencies, as provided under Chapter 381, F.S.

(c) All other requests to amend a license including but not limited to services, licensed capacity, and other specifications which are required to be displayed on the license by authorizing statutes or applicable rules must be received by the Agency 60 to 120 days in advance of the requested effective date. This deadline does not apply to a request to amend hospital emergency services defined in Section 395.1041(2), F.S.

(3) Failure to submit a timely request shall result in a \$500 fine.

(4) A licensee is not authorized to operate in a new location until a license is obtained which specifies the new location. Failure to amend a license prior to a change of the address of record constitutes unlicensed activity.

(5) The licensee shall return the license certificate to the Agency upon the rendition of a final order revoking, cancelling or denying a license, and upon the voluntary discontinuance of operation.

Rulemaking Authority 408.819 FS. Law Implemented 408.804, 408.810, 408.813 FS. History—New 7-14-10.

59A-35.050 Fees Required; Adjustments.

(1) Licensure fees, as defined by authorizing statute or rule, are non-refundable once submitted to the Agency. An applicant may submit a request for refund if monies in excess of required fees are submitted to the Agency. Such requests must be made using State of Florida Department of Financial Services, Application for Refund form number DFS-AA-4, Rev. 0207, incorporated herein by reference, available online at:

http://myfloridacfo.com/aadir/refund_application.htm and submitted to the appropriate licensing unit. The following are examples of excess fee payments that are eligible for refund:

(a) Fees in excess of the required fee amount;

(b) A renewal reminder letter indicates an error in the required fee amount;

(c) An inspection fee is submitted when no inspection fee is required;

(d) An excess fee is submitted as an accredited provider when the licensee or applicant is not accredited; or

(e) An application is returned due to early submission.

(2) When payment for licensure fees has been dishonored, the licensee has 10 days from the date of notification to remit to the Agency the licensure fee plus any applicable fees as provided by law in the form of a money order or cashier's check. In the event that the licensure fee is not paid, the license may be subject to revocation or suspension.

(3) A request for a replacement license must be accompanied by a \$25 fee.

(4) In addition to required application, per-bed, and inspection fees, a request to amend a license must be accompanied by a \$25 fee.

Rulemaking Authority 408.819 FS. Law Implemented 408.805 FS. History—New 7-14-10.

59A-35.060 Licensure Application Process.

(1) The applicant must apply for licensure using the program specific forms listed below and the Health Care Licensing Application Addendum, AHCA Form 3110-1024, October 2009, available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-05363>. All forms are incorporated by reference and available online at: <http://ahca.myflorida.com/HQALicensureforms>.

(a) Drug Free Workplace Laboratories as provided under Sections 112.0455 and 440.102, F.S.; AHCA Form 3170-5001, Rev. July 2009.

(b) Crisis Stabilization Units, as provided under Parts I and IV of Chapter 394, F.S.; AHCA Form 3180-5003, Rev. July 2009.

(c) Short Term Residential Treatment Units, as provided under Parts I and IV of Chapter 394, F.S.; AHCA Form 3180-5003, Rev. July 2009.

(d) Residential Treatment Facilities, as provided under Chapter 394, Part IV, F.S.; AHCA Form 3180-5003, Rev. July 2009.

(e) Residential Treatment Centers for Children and Adolescents, as provided under Chapter 394, Part IV, F.S.; AHCA Form 3180-5004, Rev. July 2009.

(f) Health Care Risk Managers, as provided under Chapter 395, Part I, F.S.; AHCA Form RM-001, Rev. July 2009.

(g) Nursing Homes, as provided under Chapter 400, Part II, F.S.; AHCA Form 3110-6001, Rev. July 2009.

(h) Home Health Agencies, as provided under Chapter 400, Part III, F.S.; AHCA Form 3110-1011, Rev. July 2009.

(i) Nurse Registries, as provided under Chapter 400, Part III, F.S.; AHCA Form 3110-7004, Rev. July 2009.

(j) Companion Services or Homemaker Services, as provided under Chapter 400, Part III, F.S.; AHCA Form 3110-1003, Rev. July 2009.

(k) Hospices, as provided under Chapter 400, Part IV, F.S.; AHCA Form 3110-4001, Rev. July 2009.

(l) Home for Special Services as provided under Chapter 400, Part V, F.S.; AHCA Form 3110-3001, July 2014, and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-05202>.

(m) Home Medical Equipment Providers, as provided under Chapter 400, Part VII, F.S.; AHCA Form 3110-1005, Rev. July 2009.

(n) Intermediate Care Facilities for the Developmentally Disabled, as provided under Chapter 400, Part VIII, F.S.; AHCA Form 3110-5003, Rev. July 2009.

(o) Assisted Living Facilities, as provided under Chapter 429, Part I, F.S.; AHCA Form 3110-1008, Rev. July 2009.

(p) Adult Family-Care Homes, as provided under Chapter 429, Part II, F.S.; AHCA Form 3180-1022, Rev. July 2009.

(q) Adult Day Care Centers, as provided under Chapter 429, Part III, F.S.; AHCA Form 3180-1004, Rev. July 2009.

(r) Clinical Laboratories, as provided under Chapter 483, Part I, F.S.; AHCA Form 3170-2004 (renewal), B (initial) or C (change of ownership), Rev. July 2009 or AHCA Form 3170-2004D, September 2009 (addition of specialty, or subspecialty or change in specialty).

(s) Organ and Tissue Procurement Agencies, as provided under Chapter 381, F.S.; AHCA Form 3140-2001, July 2009.

(2) The licensure fee must be included with any application. Applications will be returned to the applicant unprocessed if the fee does not accompany the application. Applications from state agencies must include a copy of the posted journal transactions by State Wide Document Number (SWDN) within benefiting Operating Level Organization (OLO) and site.

(3) Applications received more than 120 days prior to the date of license expiration or the effective date will be returned to the applicant unprocessed.

(4) If an applicant, licensee, or controlling interest is required to register or file with the Florida Secretary of State, Division of Corporations, the principal, fictitious name and mailing addresses submitted with the licensure application for the applicant, licensee and controlling interests must be the same as the information registered with the Division of Corporations.

(5) Unresponsive applicant. If certified mail sent to the provider's address of record, or mailing address if applicable, is returned as unclaimed or undeliverable, the Agency will send a copy of the letter by regular mail to the provider's address of record, or mailing address if applicable, with a copy to the applicant's address if different from the provider. The applicant must respond to the request within 21 days of the date of the letter sent by regular mail. If timely response is not received, the application will be subject to withdrawal or denial.

(6) An application is considered complete upon receipt of:

(a) All required documents and information and appropriate fee;

(b) All required background screening results; and,

(c) Completion of a satisfactory inspection if required by authorizing statutes or rules. Satisfactory inspection means no regulatory violations exist, or all prior violations found have been determined by the Agency to be corrected.

(7) A licensure inspection will not be authorized until paragraphs (6)(a) and (6)(b) of this section have been satisfied.

(8) An application for license renewal may only be filed by the licensee.

Rulemaking Authority 408.819 FS. Law Implemented 400.801, 408.805, 408.806, 408.809, 408.810, 408.811 FS. History—New 7-14-10, Amended 5-4-15.

59A-35.062 Proof of Financial Ability to Operate.

(1) Proof of financial ability to operate must be demonstrated for initial licensure and change of ownership applications, by submitting AHCA Form 3100-0009, July 2009, Proof of Financial Ability to Operate, incorporated herein by reference, and available online at: <http://www.ahca.myflorida.com/Publications/Forms/HQA.shtml>, as provided under Section 408.810(8), F.S., for the following provider types:

- (a) Nursing Home Facilities, as specified in Chapter 400, Part II, F.S.;
- (b) Assisted Living Facilities, as specified in Chapter 429, Part I, F.S.;
- (c) Home Health Agencies, as specified in Chapter 400, Part III, F.S.;
- (d) Hospices, as specified in Chapter 400, Part IV, F.S.;
- (e) Adult Day Care Centers, as specified in Chapter 429, Part III, F.S.;
- (f) Prescribed Pediatric Extended Care Centers, as specified in Chapter 400, Part VI, F.S.;
- (g) Home Medical Equipment Providers, as specified in Chapter 400, Part VII, F.S.;
- (h) Intermediate Care Facilities for the Developmentally Disabled, as specified in Chapter 400, Part VIII, F.S.;
- (i) Health Care Clinics, as specified in Chapter 400, Part X, F.S.; and,

(2) Proof of financial ability must be demonstrated for initial licensure and change of ownership applications for Nurse Registries, as specified in Chapter 400, Part III, F.S., by submitting AHCA Form 3110-7004A, September 2009, Nurse Registry Proof of Financial Ability to Operate, incorporated herein by reference, and available online at: <http://www.ahca.myflorida.com/Publications/Forms/HQA.shtml>.

(3) Definitions. The following definitions apply to this section for proof of financial ability to operate.

(a) "Assumptions" means the basis and rationale used in the financial projections to estimate the number and type of patients, the method of acquiring patients, the amount of resources needed to serve patients, the method by which these resources will be acquired, the method of recruiting and maintaining staff, the method of collecting revenue and paying expenses, and the basis for anticipated salaries and employee benefits.

(b) "Charity care" means the term as defined in Section 409.911, F.S.

(c) "Contingency funding" means a source of funding available to the licensee or applicant to cover the cost of events not considered in the financial projections, including, but not limited to, a drop in patient volume, a delay in Medicare and/or Medicaid certification, major repairs, purchase of capital equipment. The contingency fund will be a minimum of one month's average operating expense over the first year of operations.

(d) "Contractual adjustments" means the difference in the established charges or rates of the provider and the rates negotiated by Medicare, Medicaid, HMO/PPOs, and Insurers.

(e) "Financial instability" means the provider cannot meet its financial obligations. Evidence such as the issuance of bad checks, an accumulation of delinquent bills, or inability to meet current payroll needs shall constitute prima facie evidence that the ownership of the provider lacks the financial ability to operate. Evidence shall also include the Medicare or Medicaid program's indications or determination of financial instability or fraudulent handling of government funds by the provider.

(f) "Financial projections" means the expected operating results of the applicant as presented on AHCA Form 3100-0009, July 2009.

(g) "Full time equivalent" or "FTE" means a measure of full-time employment of 40 hours per week (1FTE = 40 hours per week or 2,080 hours annually).

(h) "Generally Accepted Accounting Principles" or "GAAP" means the term as defined in Rule 61H1-20.007, F.A.C., Department of Business and Professional Regulation, Board of Accountancy.

(i) "Liquid assets" means assets of the licensee or applicant that can easily and quickly be converted to cash such as publicly traded stocks, bonds, certificates of deposit, and money market accounts.

(j) "Net patient service revenue" means patient service revenue minus deductions from revenue. Deductions from revenue include contractual adjustments and charity care.

(k) “Operating expense” means total expenses incurred through the normal course of business.

(l) “Operating margin” means a measure of profitability and is calculated as follows: $([\text{Net Patient Service Revenue} - \text{Operating Expenses}] \div \text{Net Patient Service Revenue}) = \text{Operating Margin}$.

(m) “Patient service revenue” means the total charge for a service provided.

(n) “Pre-opening costs” means the costs necessary to begin operations including advertising, equipment purchases, legal fees, accounting fees, consulting fees, pre-paid insurance, pre-paid rent, licensure fees, deposits (rent, utilities), requirement, staffing, and training.

(o) “Working capital” means the cash needed to sustain operations until a positive cash flow is achieved. (Largest cumulative cash need from Schedule 7 Line 21 of AHCA Form 3100-0009, July 2009).

(4) All documents required under this section must be prepared in accordance with generally accepted accounting principles. All documents required under this section for Home Health Agencies, Home Medical Equipment Providers and Health Care Clinics must be compiled and signed by a certified public accountant.

(5) A pro forma balance sheet, a pro forma cash flow statement and a pro forma income and expense statement for the first 2 years of operation which provide evidence of having sufficient assets, credit, and projected revenues to cover liabilities and expenses must be included. An application for change of ownership may elect not to complete the 2nd year of operations on AHCA Form 3100-0009, July 2009, if all of the following apply:

(a) As of the date of the application, the entity subject to the change of ownership has been licensed for at least 5 consecutive years;

(b) The applicant’s assets, credit, and projected revenues meet or exceed projected liabilities and expenses by the end of the first year;

(c) The largest cumulative cash need on Schedule 7, Line 21 on AHCA Form 3100-0009, July 2009 occurs prior to month 12.

(6) The applicant shall have demonstrated financial ability to operate if the applicant’s assets, credit, and projected revenues meet or exceed projected liabilities and expenses.

(7) An applicant for renewal of a license shall not be required to provide proof of financial ability to operate, unless the licensee or applicant has demonstrated financial instability. If an applicant or licensee has shown signs of financial instability, as provided in Section 408.810(9), F.S., at any time, the Agency may require the applicant or licensee to provide proof of financial ability to operate by submission of:

(a) AHCA Form 3100-0009, July 2009, Proof of Financial Ability Form, that includes a balance sheet and income and expense statement for the next 2 years of operation which provide evidence of having sufficient assets, credit, and projected revenues to cover liabilities and expenses; and

(b) Documentation of correction of the financial instability, including but not limited to, evidence of the payment of any bad checks, delinquent bills or liens. If complete payment cannot be made, evidence must be submitted of partial payment along with a plan for payment of any liens or delinquent bills. If the lien is with a government agency or repayment is ordered by a federal or state court, an accepted plan of repayment must be provided.

Rulemaking Authority 408.819 FS. Law Implemented 408.806, 408.810 FS. History—New 7-14-10.

59A-35.070 Change of Ownership.

(1) Effective dates of change of ownership.

(a) A change of ownership application must include the effective date of the change of ownership.

(b) The change of ownership effective date cannot be prior to the date the application is received by the Agency. Failure to submit an application for licensure prior to the effective date of a change of ownership to a different legal entity constitutes unlicensed activity.

(c) The effective date of the change of ownership shall not be extended more than 60 days from the effective date reported on the application; written notification of a change in the effective date must be received by the Agency prior to the originally reported effective date. The Agency will deem the application withdrawn if the change of ownership does not occur within 60 days of the reported effective date.

(2) All required application documents and information must be received with the application or within 21 days of the request by the Agency with the exception of the transferee's proof of right to occupy if required, which must be received by the Agency within 10 days after the effective date.

(3) When a change of ownership application is submitted during the review of a renewal licensure application, the pending renewal will be administratively withdrawn from review if the change of ownership application is approved with an effective date prior to the expiration of the license.

(4) Expiration of a license prior to the approval of the change of ownership application, when no renewal application has been submitted, will result in the denial of a change of ownership application.

(5) If the applicant has not been issued the license on the effective date of the change of ownership, documentation must be submitted that provides for continuation of operation of the licensee for those days between the date of the change of ownership and the date the applicant is licensed by the Agency.

Rulemaking Authority 408.819 FS. Law Implemented 408.803(3), 408.803(5), 408.806, 408.807, 408.810, 408.813 FS. History—New 7-14-10.

59A-35.080 License Categories.

(1) Provisional License. If a license expires while an action to deny or revoke the license is pending and renewal applications are filed, the Agency may issue a provisional license. The provisional license shall identify the pending action. The provisional license will expire when the Agency action is final or one year after issuance, whichever occurs first. The provisional license does not affect the revocation or denial action or constitute a defense on behalf of the licensee or applicant.

(2) Inactive License. An inactive license may be issued, as provided in Sections 408.808(3), F.S.

(a) Requests for an inactive license must be submitted to the Agency as a written request that includes:

1. The reason that the provider will become inactive;
2. The proposed plan for transferring or discharging clients;
3. A plan for resuming services;
4. The date by which services are expected to resume; and
5. Evidence of a State of Emergency or disaster if applicable.

(b) The inactive license will not be issued until all clients have been properly transferred or discharged. The expiration date of the inactive license will be issued for a period not to exceed 12 months. An application to extend the inactive period for an additional 12 months must be submitted 30 days prior to the expiration of the inactive license.

(c) Notification to reactivate the license and a complete licensure renewal application must be submitted to the Agency at least 90 days prior to the requested reactivation date. An onsite inspection may be required prior to

reactivation. Licensure fees will be prorated based on the provider's standard fee divided by the number of months remaining in the licensure cycle.

Rulemaking Authority 408.819 FS. Law Implemented 408.808(2), (3), FS. History—New 7-14-10.

59A-35.090 Background Screening.

(1) Definitions:

(a) "Arrest Report" means the detailed narrative written by the arresting law enforcement officer explaining the circumstances of the arrest.

(b) "Disposition" means the sentencing or other final settlement of a criminal case which shall include, regardless of adjudication, a plea of nolo contendere or guilty, or a conviction by a judge or jury.

(c) "Disqualifying Offense" means any criminal offense prohibited in Section 435.04 or 408.809(5), F.S.

(d) "Exemption from Disqualification" means an exemption granted by the Agency following a review of the Application for Exemption, AHCA Form 3110-0019, September 2013, hereby incorporated by reference, and an informal hearing, if appropriate, during which the individual must present clear and convincing evidence to support a reasonable belief that he or she has been rehabilitated and does not present a danger to the health, safety, and welfare of the patient or individual as described in Section 435.07, F.S.

(e) "FBI" means the Federal Bureau of Investigation.

(f) "FDLE" means the Florida Department of Law Enforcement.

(g) "Level 2 Screening" means an assessment of the criminal history record obtained through a fingerprint search through the FDLE and FBI to determine whether screened individuals have any disqualifying offenses pursuant to Sections 435.04 or 408.809(5), F.S. An analysis and review of court dispositions and arrest reports may be required to make a final determination.

(h) "Livescan Service Provider" means an entity that scans fingerprints electronically and submits them to FDLE.

(2) Processing Screening Requests, Required Documents and Fees.

(a) Providers subject to the screening standards outlined in Section 408.809, F.S., must follow the requirements specified in Section 435.12, F.S. Care Provider Background Screening Clearinghouse and must register and initiate all criminal history checks through the Care Provider Background Screening Clearinghouse before referring an employee or potential employee for electronic fingerprint submission to the Department of Law Enforcement. Providers can access the Care Provider Background Screening Clearinghouse at:

apps.ahca.myflorida.com/SingleSignOnPortal.

(b) Persons required to undergo Level 2 background screening must submit fingerprints electronically through a Livescan Service Provider(s) contracted through the Agency or approved through the Florida Department of Law Enforcement. Payment for screening services must be made to the Livescan Service Provider at the time of services or through a payment arrangement with the Livescan Service Provider.

(c) If the individual's fingerprints are rejected by the FBI due to illegible prints, the requesting provider will be notified through the Agency's secure web site. The individual must return to the same Livescan Service Provider and submit a second set of fingerprints in accordance with the guidelines established by the FBI. If the fingerprints are not resubmitted within 14 days, the individual will be notified by letter from the Agency. The second set of prints must be submitted within 21 days of the Agency's request or the screening request will be considered

withdrawn. If withdrawn, the individual must submit a new set of electronic fingerprints through a Livescan Service Provider accompanied by the required fee.

(d) An Affidavit of Compliance with Background Screening Requirements, AHCA Form 3100-0008, September 2013, herein incorporated by reference, available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-03402>, and available from the Agency for Health Care Administration at: <http://www.ahca.myflorida.com/Publications/Forms/HQA.shtml>, must be submitted:

1. As part of the licensure application with a copy of screening results for administrators and chief financial officers that have been screened through the Care Provider Background Screening Clearinghouse created under Section 435.12, F.S., or screened within the previous 5 years by the Agency, Department of Health, Department of Elder Affairs, the Agency for Persons with Disabilities, Department of Children and Families, or the Department of Financial Services for an applicant for a certificate of authority to operate a continuing care retirement community under Chapter 651, F.S., and in accordance with the standards in Section 408.809(2), F.S.;

2. Upon hiring for an employee to attest that they meet the requirements for qualifying for employment, they have not been unemployed for more than 90 days from a position that requires Level 2 screening, and they agree to inform the employer immediately if arrested for any disqualifying offense.

(e) An administrator or chief financial officer must be screened and qualified prior to appointment to the position.

(3) Results of Screening and Notification.

(a) Final results of background screening requests will be provided through the Agency's secure web site that may be accessed by all health care providers applying for or actively licensed through the Agency that are registered with the Care Provider Background Screening Clearinghouse. The secure website is located at: apps.ahca.myflorida.com/SingleSignOnPortal.

(b) If a Level 2 criminal history is incomplete, a certified letter will be sent to the individual being screened requesting the arrest report and court disposition information. If the letter is returned unclaimed, a copy of the letter will be sent by regular mail. Pursuant to Section 435.05(1)(d), F.S., the missing information must be filed with the Agency within 30 days of the Agency's request or the individual is subject to disqualification in accordance with Section 435.06(3), F.S.

(c) The eligibility results of employee screening and the signed Affidavit referenced in subsection 59A-35.090(2), F.A.C., must be in the employee's personnel file, maintained by the provider.

(4) Exemption from Disqualification.

(a) Requests for an exemption from disqualification shall be submitted in writing to the Agency using the "Application for Exemption from Disqualification" AHCA Form 3110-0019, September 2013 incorporated by reference, available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-03401>. This form may be obtained from the Agency for Health Care Administration, Background Screening Unit, 2727 Mahan Drive, MS #40, Tallahassee, Florida 32308 or through the Agency's website at: ahca.myflorida.com/backgroundscreening.

(b) Individuals that are licensed or certified in a profession under the jurisdiction of the Department of Health must apply for an exemption to the appropriate licensing or certifying board at the Department of Health unless the individual will be working in a position other than for which they are licensed or certified.

(c) The individual shall bear the burden of setting forth clear and convincing evidence of rehabilitation which includes any information indicating the individual presents no danger to the safety or well being of others. The

individual must present such evidence as arrest reports, court dispositions, parole/probation information, and reference letters from employers, and/or personal references. Other documents that may be included are records of successful participation in a rehabilitation program, further education or training, community or church involvement, special awards or recognition or testimony by self or others.

(d) An “Application for Exemption” will not be reviewed until all required documents are obtained. If the application is deemed incomplete after 30 days of receipt by the Agency, the application will be closed.

(e) In deciding whether to grant or deny an exemption request, the Agency shall consider factors such as the facts and circumstances surrounding the disqualifying offense(s), the nature of the harm to the victim, whether the individual is on probation or parole, whether restitution has been made, other offenses on the criminal history record and the length of time since the last offense, the history of the person since the disqualifying offense(s), work experience, personal references, performance evaluations, probation or parole violations, education, other evidence of rehabilitation, and the honesty and candor of the disqualified individual.

(f) Any exemption granted by the Agency is limited to the information provided at the time of application and the disqualifying offense or offenses committed prior to the date of the request for exemption.

(g) The Agency shall void any exemption granted to an individual when there is evidence that information which would adversely affect the decision was not made available at the time of the determination or there is an arrest or disposition of a new disqualifying offense since the date the exemption was granted.

(5) Unless otherwise specified, information requested pursuant to this section must be filed with the Agency within 21 days of the Agency’s request.

Rulemaking Authority 408.809, 408.819 FS. Law Implemented 408.809, 408.810 FS. History—New 7-14-10, Amended 12-16-13.

59A-35.100 Minimum Licensure Requirements.

Provider location. A licensee must maintain proper authority for operation of the provider at the address of record. If such authority is denied, revoked or otherwise terminated by the local zoning or code enforcement authority, the Agency may deny or revoke an application or license, or impose sanctions.

Rulemaking Authority 408.819 FS. Law Implemented 408.810 FS. History—New 7-14-10, Amended 3-12-12.

59A-35.110 Reporting Requirements; Electronic Submission.

(1) During the two year licensure period, any change or expiration of any information that is required to be reported under Chapter 408, Part II, F.S., or authorizing statutes for the provider type as specified in Section 408.803(3), F.S., during the license application process must be reported to the Agency within 21 days of occurrence of the change, including:

(a) Insurance coverage renewal;

(b) Bond renewal;

(c) Change of administrator or the similarly titled person who is responsible for the day-to-day operation of the provider;

(d) Annual sanitation inspections;

(e) Fire inspections; and,

(f) Approval of revisions to emergency management plans.

(2) Electronic submission of information.

(a) The following required information must be reported through the Agency's Internet site at <http://www.ahca.myflorida.com/reporting/index.shtml>:

1. Nursing homes:

- a. Semi-annual staffing ratios required pursuant to Section 400.141(1)(o), F.S. and Rule 59A-4.103, F.A.C.
- b. Adverse incident reports required pursuant to Sections 400.147(7) and (8), F.S. and Rule 59A-4.123, F.A.C.
- c. Liability claim reports required pursuant to Section 400.147(10), F.S. and Rule 59A-4.123, F.A.C.

2. Assisted living facilities:

- a. Adverse incident reports required pursuant to Sections 429.23(3) and (4), F.S. and Rule 58A-5.0241, F.A.C.
- b. Liability claim reports required pursuant to Section 429.23(5), F.S. and Rule 58A-5.0242, F.A.C.

(b) The licensee must retain the receipt issued from the Internet site indicating that their transaction was accepted.

(c) If the Agency's Internet site is temporarily out of service, the required reports may be submitted by mail or facsimile as follows:

1. Semi-annual staffing ratios and liability claim reports are sent to the Agency for Health Care Administration, Central Systems Management Unit, 2727 Mahan Drive, MS #47, Tallahassee, FL 32308 or facsimile to (850)487-0470.

2. Adverse incident reports are sent to the Agency for Health Care Administration, Florida Center for Health Information and Policy Analysis, 2727 Mahan Drive, MS #16, Tallahassee, FL 32308 or facsimile to (850)922-2217.

Rulemaking Authority 408.806(8), 408.819 FS. Law Implemented 408.806, 408.810 FS. History—New 7-14-10.

59A-35.120 Inspections.

(1) When regulatory violations are identified by the Agency:

(a) Deficiencies must be corrected within 30 days of the date the Agency sends the deficiency notice to the provider, unless an alternative timeframe is required or approved by the Agency.

(b) The Agency may conduct an unannounced follow-up inspection or off-site review to verify correction of deficiencies at any time.

(2) If an inspection is completed through off-site record review, any records requested by the Agency in conjunction with the review, must be received within 7 days of request and provided at no cost to the Agency. Each licensee shall maintain the records including medical and treatment records of a client and provide access to the Agency.

(3) Providers that are exempt from Agency inspections due to accreditation oversight as prescribed in authorizing statutes must provide:

(a) Documentation from the accrediting agency including the name of the accrediting agency, the beginning and expiration dates of the provider's accreditation, accreditation status and type must be submitted at the time of license application, or within 21 days of accreditation.

(b) Documentation of each accreditation inspection including the accreditation organization's report of findings, the provider's response and the final determination must be submitted within 21 days of final determination or the provider is no longer exempt from Agency inspection.

Rulemaking Authority 408.819 FS. Law Implemented 408.811 FS. History—New 7-14-10.

